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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/617,102

07/10/2003

Michael G. Maietta

8567-629U1 (P-316)

2610

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7590

09/26/2005

AKIN GUMP STRAUSS HAUER & FELD L.L.P.  
ONE COMMERCE SQUARE  
2005 MARKET STREET, SUITE 2200  
PHILADELPHIA, PA 19103

EXAMINER

NOLAND, KENNETH W

ART UNIT

PAPER NUMBER

3653

DATE MAILED: 09/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/617,102	<b>Applicant(s)</b> MAIETTA ET AL.	
	<b>Examiner</b> Kenneth W. Noland	<b>Art Unit</b> 3653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 16 August 2005.  
 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.  
 4a) Of the above claim(s) 16-30 is/are withdrawn from consideration.  
 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
 6) ☒ Claim(s) 1,4-15,31 and 33-39 is/are rejected.  
 7) ☒ Claim(s) 2,3 and 32 is/are objected to.  
 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) ☐ All b) ☐ Some \* c) ☐ None of:  
 1. ☐ Certified copies of the priority documents have been received.  
 2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10-14-03</u> . | 6) <input type="checkbox"/> Other: _____  |

*[Handwritten signature]*

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1. Applicant's election without traverse of the invention in the reply filed on \*08-16-05\*\* is acknowledged. Claims 16-30 are withdrawn.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1,4,5,6,7,,8,9,10,11,12,31,33,34,35,36 are rejected under 35 U.S.C. 103(a) as being unpatentable over \*Benaroya in view of Shepherd et al. \*Benaroya discloses the apparatus to effect the method of providing a housing 12 with the inner and outer 'shells' shown in figure 3 to receive the rotatable tray 16 receiving a plurality of tablets. Note also in figure 3 the cover 13 to close the tray. Note in column 14. lines 54-63, the use of both a visual LCD alarm and an acoustic alarm which is considered to operate at a predetermined time period. Note in column 9, lines 40-59 the use of resetting of the alarm upon the dispensing of the article, or in column 15 lines 1-9 the 'resetting' of the alarm by turning of the alarm on or off upon the dispensing of a tablet. To provide that Benaroya's dispenser would utilize a blister -type of pack or tray would be obvious in view of the teachings of Shepherd et al's disclosed use of the conventional use of the blister packs used in dispensers (see col 1, lines 42-47) to effect a better type of dispenser that utilizes a blister -type of tray. As a side note, Shepherd et al further teaches in figure 7 the use of a deactivation and the resetting of the alarm upon the dispensing of the article..\*Finally, in regard to claims 6,12,34, to modify

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Benaroya's audible device for a piezo-electric or a VLSI logic type would be obvious as such devices are frequently used in industry and , therefore, this conventional expediency is not afforded any patentable weight.

4. Claims 13-15 and 37-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over \*Benaroya in view of Shepherd et al\*\* as applied to claims 1,4-12,31,33-36\*\*\* above, and further in view of \*\*Martindale et al. To modify Benaroya's alarm for a "one-shot" type timer would be obvious in view of the teachings of Martindale et al's use of the one-shot type of timer for the alert device (see column 3, lines 48-68) also utilizing a piezoceramic chip to effect an improved alarm system.

5. \*Claims 2,3 and 32 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth W. Noland whose telephone number is (571) 272-6941. The examiner can normally be reached on Monday-Thursday ,each week.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald Walsh can be reached on (703) 306-4173. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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*Kenneth W. Noland 9/21/2005*  
KENNETH W. NOLAND  
PRIMARY EXAMINER